

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Latesia Allen

(b) County of Residence of First Listed Plaintiff Clayton County, GA

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Toya Perkins, Esq.; Morgan & Morgan Atlanta PLLC
P.O. Box 57007; Atlanta, GA 30343; 844-765-6513

DEFENDANTS

Walmart Stores East, LP; ABC Corps. #1-3; and John Does #1-3

County of Residence of First Listed Defendant Pulaski County, AR

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Matthew J. Hurst, Esq.; Waldon Adelman Castilla Hiestand & Prout; 900 Circle 75 Pkwy; Suite 1040; Atlanta, GA 30339

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input checked="" type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. §§ 1332, 1441

Brief description of cause:

Plaintiff is a citizen of Georgia; Defendant is a business in Arkansas; The amount in controversy exceeds \$75,000.

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE Michael T. GarrettDOCKET NUMBER 2023CV01005-mg

DATE

SIGNATURE OF ATTORNEY OF RECORD

July 26, 2023

/s/ Matthew J. Hurst

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

LATESIA ALLEN,)	
)	CIVIL ACTION FILE
Plaintiff,)	NO. _____
)	
vs.)	On removal from the State Court
)	of Clayton County, Civil Action
WALMART STORES EAST, LP:)	File No.: 2023CV01005-MG
ABC CORPS #1-3; AND JOHN)	
DOES #1-3,)	JURY TRIAL DEMANDED
)	
Defendants.)	

NOTICE OF REMOVAL

COME NOW WAL-MART STORES EAST, LP, incorrectly identified as “Walmart Stores East, LP.,” (hereinafter, “Walmart”) a named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff commenced this action by filing a Complaint on April 28, 2023, in the State Court of Clayton County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 2023CV01005-MG in that Court. (See generally Complaint, a copy of which is included in attached Exhibit “A”).

Plaintiff's claims against Walmart include claims of negligence and premise liability. (See generally Complaint).

2.

Plaintiff's Complaint was filed in the State Court of Clayton County on April 28, 2023 - hereinafter referred to as the "Clayton County Suit." (See generally Complaint)

3.

Defendant WAL-MART STORES EAST, LP was served with a copy of the Summons and Complaint in the Clayton County Suit on or about June 7, 2023. (See Service of Process Transmittal Summary, a copy of which is included within Exhibit "A"). Defendant WAL-MART STORES EAST, LP has filed this notice of Removal within thirty (30) days of service in the Clayton County Suit.

4.

Defendant WAL-MART STORES EAST, LP is a Delaware limited partnership, of which WSE Management, LLC is the only general partner, and WSE Investment, LLC is the only limited partner. The sole member of WSE Management, LLC and of WSE Investment, LLC is Wal-Mart Stores East, LLC, and the sole member of Wal-Mart Stores East, LLC is WALMART INC. WALMART INC. is a Delaware corporation with its principal place of business in

the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 124 West Capitol Avenue, Suite 1900, Little Rock, Arkansas 72201. (See Complaint, ¶ 2; See also Georgia Secretary of State and Delaware Secretary of State documents, a copy of which is attached hereto as Exhibit “B”).

5.

Plaintiff Allen has alleged she is a citizen of the State of Georgia. (See Complaint, ¶ 1).

6.

Defendants John Does 1-3 and ABC Corps #1-3 are fictitious Defendants whose citizenships must be disregarded for removal purposes. See 28 U.S.C. § 1441(b)(1); Weiland v. Palm Beach Cty. Sheriff’s Office, 792 F.3d 1313, 1318 n.4 (11th Cir. 2015).

6.

Complete diversity of citizenship exists between Plaintiff and Defendants.

7.

Plaintiff claims personal injury from a slip-and-fall incident and seeks general and special damages, including past medical expenses. In Plaintiff’s June

28, 2023, Time Limit Demand, she demanded \$1,000,000.00 to resolve her claims. (See Plaintiff's June 28, 2023, Time Limit Demand, Attached as Exhibit "C"). Thus, based upon Plaintiff's demand, the amount in controversy exceeds \$75,000.00.

9.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

10.

Pursuant to the provisions of 28 U.S.C. § 1446, Walmart has attached as Exhibit "A" copies of all the pleadings that were provided to and served upon Walmart, including copies of all pleadings that have been filed to date in the Clayton Court Suit.

11.

Pursuant to 28 U.S.C. § 1446, Defendants are not required to file a removal bond.

12.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

13.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Clayton County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES EAST, LP, prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 25 day of July, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Matthew J. Hurst
Matthew J. Hurst
Georgia Bar No. 480267
Attorney for Walmart Stores East, LP.

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
mhurst@wachp.com

5.1 CERTIFICATE OF COMPLIANCE

I hereby certify that this document was prepared in Times New Roman font,
14-point and complies with Local Rules 5.1(C), NDGa.

This 25 day of July, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Matthew J. Hurst
Matthew J. Hurst
Georgia Bar No. 480267
Attorney for Walmart Stores East, LP.

900 Circle 75 Parkway
Suite 1040
Atlanta, Georgia 30339
(770) 953-1710
mhurst@wachp.com

CERTIFICATE OF SERVICE

This is to certify that I have this day served electronically filed a ***NOTICE OF REMOVAL*** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record and upon all parties to this matter by United States mail, postage prepaid, and properly addressed as follows:

Toya Perkins, Esq.
Morgan & Morgan Atlanta, PLLC
P.O. Box 57007
Atlanta, GA 30343
tperkins@forthepeople.com

This 25 day of July, 2023.

WALDON ADELMAN CASTILLA
HIESTAND & PROUT

/s/ Matthew J. Hurst
Matthew J. Hurst
Georgia Bar No. 480267
Attorney for Walmart Stores East, LP.

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